

REMARKS

In the Office Action, the Examiner indicated that claims 1 through 27 are pending in the application and the Examiner rejected all claims.

Rejection of Claims 1-27 under 35 U.S.C. §103(a)

On page 3 of the Office Action, the Examiner rejected claims 1-2, 4-12 and 14-27 under 35 U.S.C. §103(a) as being unpatentable over Jones ("Working Without Wires," *Industrial Distribution*, p. M6, M8-M9, August 1999) in view of Welling ("Unveiling AIM's store of the future, part I," *Apparel Industry Magazine*, Volume 61, No. 2, p. 24-31, February 2000).

On page 3 of the Office Action, the Examiner rejected claims 1-2, 4-12 and 14-27 under 35 U.S.C. §103(a) as being unpatentable over Jones in view of Welling, and further in view of U.S. Patent No. 5,995,015 to DeTemple et al.

The Present Invention

The present invention provides a method and system for using RFID tagged items carried on persons to infer the identity of the persons. The identity information can be used to provide targeted advertising and to improve existing store systems and tracking systems.

In one embodiment, previous purchase records of persons (e.g., customers) who shop at a store are collected by POS terminals and stored in a transaction database. When a person carrying or wearing items having RFID tags therein enters the store or other designated area, a RFID tag scanner located therein scans the RFID tags on that person and reads non-unique RFID tag

information. The non-unique RFID tag information collected from the items carried by the person is correlated with transaction records stored in the transaction database to determine the exact identity of the person, or infer identifying characteristics of the person. Then, as that person moves around the store, different RFID tag scanners located throughout the store can pick up radio signals from the RFID tags carried on that person and the movement of that person is tracked based on these detections.

In another embodiment, without having any prior records of individuals and their purchase records, a person carrying RFID-tagged items can be scanned to identify a collection of items that the person is carrying, based on the non-unique product information stored by the RFID tag. The present invention assigns a tracking number to that person based on the collected RFID tag information, and the tracking number is used to track the person's movement. In this embodiment, the exact identity (i.e., name, address, etc.) is not determined, but the person is still tracked based on their association with the collected non-unique RFID tag information.

In these embodiments, the tracking information can be used to provide targeted advertising to the person as the person roams through the store, or to analyze and improve existing store systems, such as the physical layout of the store, advertisement displays in the store, customer service systems in the store, lighting and other environmental settings in the store system, etc.

Jones ("Working Without Wires," *Industrial Distribution*, p. M6, M8-M9, August 1999)

Jones ("Working Without Wires," *Industrial Distribution*, p. M6, M8-M9, August 1999) (hereinafter "Jones") teaches the general concept of using RFID tags to track the spending and

purchasing habits of specific consumers. In particular, the Examiner relies on the teaching of Jones regarding "loyalty cards" that specifically identify particular customers by some form of unique identifier (e.g., their account number) so that the particular customer can obtain, for example, instant credit authorization at a gasoline pump. The Examiner acknowledges that Jones lacks the teaching of product information comprising non-unique identification information and inferring characteristics associated with a particular person [making a transaction] based on the results of a correlating step.

**Welling ("Unveiling AIM's store of the future, part I,"
Apparel Industry Magazine, Volume 61, No. 2, p. 24-31, February 2000)**

Welling ("Unveiling AIM's store of the future, part I," Apparel Industry Magazine, Volume 61, No. 2, p. 24-31, February 2000) teaches the use of RFID tags on individual clothing to track shipments, inventory, and individual characteristics of the clothing. The Examiner relies on Welling for the alleged teaching of product information comprising non-unique identification information and inferring characteristics associated with a particular person [making a transaction] based on the results of a correlating step.

U.S. Patent No. 5,995,015 to DeTemple et al.

U.S. Patent No. 5,995,015 to DeTemple et al. ("DeTemple") teaches a system for communicating between a store location and locations in the aisles of a retail facility. In particular, shopping carts are equipped with transmitters that uniquely identify the cart and track the path of the cart through the store. When a user of the cart ends the shopping trip at the Point-

of-Sale (POS) terminal of the store, the items in the cart can be correlated with the path taken by the shopping cart in the store. The customers have customer cards which uniquely identify them as being a particular customer, allowing the purchase made by the customer to be associated with the particular customer, using the unique identifier.

The Examiner has not Established a *prima facie* Case of Obviousness

As set forth in the MPEP:

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combine reference teachings.

MPEP 2143

Independent claim 1 includes the collection of product information from RFID-tagged items carried on a particular person, said product information comprising non-unique identification information. This non-unique identification information is correlated with transaction information associated with a plurality of persons, and based on the correlation, identifying characteristics associated with a particular person are inferred. Specifically, claim 1 states:

“correlating, using said computer, the product information with the transaction information; and
inferring identifying characteristics associated with the particular person based on results of the correlating step.”

Each of the additional independent claims (claims 8, 11, 17, 19 and 25) include essentially similar limitations. The Examiner acknowledges that Jones lacks the teaching of product information

comprising non-unique identification information and inferring characteristics associated with a particular person [making a transaction] based on the results of a correlating step and relies on Welling for an alleged teaching of the limitations.

Welling fails to teach the limitations lacking from Jones as well as fails to provide any motivation for modifying a system such as that used by Jones. Welling merely shows a video of a particular dress along with accessories that coordinate with the dress, the video being triggered by an RFID tag on the dress. However, no inference is made involving the customer or any previous transaction history stored on a computer system. In the example given by Welling, the customer is never identified, only a product. No inference is made as to the dress as a standard video plays regardless of size, quantity or color of the dress selected. While the size of the dress could be reported by the RFID tag, this information is neither utilized nor stored by the system of Welling for the purposes of inferring identifying characteristics associated with the particular person based on results of a correlation step comparing product information with transaction information, as is claimed in each independent claim. Welling merely teaches a creative method of advertising additional products.

Additionally, no motivation is seen in either reference for modification. Jones suggests no reason for collecting non-unique information from RFID tagged products carried by a particular person, nor does Jones suggest the possible modification of his system to include this limitation. Similarly, Welling provides no motivation for altering a system where a consumer uses a RFID tagged card for methods of payment such as the one taught by Jones. Welling is only concerned with inventory and advertising. At best, impermissible hindsight is being used to attempt to find a

basis for rejecting the claimed invention under 35 U.S.C. §103. However, since fundamental teachings and/or suggestions, which would be required to make the rejections valid, are missing, the rejection of the claims must fail. Since Jones and Welling, either considered alone or in combination, fail to teach or suggest the claimed features found in each claim pending in the present application, the claimed invention patentably defines over the combination of Jones and Welling as cited by the Examiner.

In view of the lack of teaching or suggestion in the cited references of elements claimed in each of the pending claims, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims under 35 U.S.C. § 103.

Likewise, DeTemple contains no such teaching or suggestion of product information comprising non-unique identification information and inferring characteristics associated with a particular person [making a transaction] based on the results of a correlating step. DeTemple requires a unique identifier (the unique identifier of the shopping basket and the unique customer identity card carried by the customer) in order to be able to track the path of a shopping cart and reveal information regarding the shopping habits of a particular specifically identified individual. Since Jones, Welling, and DeTemple, either considered alone or in any combination, fail to teach or suggest the claimed features found in each claim pending in the present application, the claimed invention patentably defines over the combination of Jones in view of Welling, and further in view of DeTemple as cited by the Examiner.

In view of the lack of teaching or suggestion in the cited references of elements claimed in each of the pending claims, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims under 35 U.S.C. § 103.

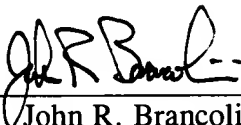
Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this communication to Deposit Account No. 09-0461.

Respectfully submitted

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Date



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